IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.260 OF 2005

Farrukh Shafi Sarang ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr.Subhash Jha with Mr.Gaurav Agarwal for Applicant.

Mr.V.B.Konde-Deshmukh, A.P.P. for Respondent.

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CORAM: A.M.KHANWILKAR, J.

JANUARY 19, 2005.

P.C.

1. The question raised in this Application, in my opinion, is squarely answered by the unreported decision dated December 14, 2004 in Criminal Application Nos.5103 of 2004 and companion cases. However, Mr.Jha for the Applicant contends that the said decision will have to be reconsidered because certain other reported decisions were not placed before this Court, which have taken a contrary view. Indeed, Mr.Jha is right in

contending that the decisions which he intends to rely, were not brought to my notice, and that, in those cases, the language of Section with which the Court was concerned, was parimateria to the sentence provided by Section 489B of the Indian Penal Code (hereinafter referred to as the 'I.P.C.'). Even in those cases, the Court was considering requirement of filing charge-sheet within the stipulated period in relation to offences punishable under Sections 304B, 498A, 306, 420, 467 and 471 of the I.P.C. respectively. Those cases are reported in **2002 Cri.L.J. 2507 (Jharkhand High Court) in the case of Sunil Kumar vs. State of Jharkhand, 110 (2004) DLT 607 (Delhi High Court) in the case of The State vs. Mr.B.B.Singh & Ors., (2001) 3 Calcutta Law Times 172 (Calcutta High Court) in the case of Jayanta Majhi & Ors. vs. State of West Bengal and unreported decision of the Delhi High Court in the case of Daljeet Singh Gill vs. The State of NCT of Delhi decided on 24th March 2003 in Crl.MM 991 of 2003.** Reliance is also placed on the decision of our High Court (Single Judge) reported in **2000 (5) Bom.C.R.290 in the case of Santosh Singh Govardhan**

Singh Kashyap vs. State of Maharashtra. In this case, however, the Court was considering statutory requirement in the context of Section 366 of the I.P.C., which does not provide for punishment as is provided under Section 489B which was considered by me in my unreported decision in **State of Maharashtra vs. Popatlal Samnaji Jain @ Masjid @ Raju, etc. etc. (supra).**

2. So far as the decisions of State of Jharkhand, Delhi and Calcutta High Court pressed into service are concerned, the opinion expressed therein is based on the observations of the Apex Court in the case of **Rajeev Chaudhary vs. State (NCT) of Delhi reported in (2001) 5 SCC 34**. In my unreported decision in the **State of Maharashtra vs. Popatlal (supra)**, I had occasion to consider the decision of the Apex Court and have noted that the same cannot be pressed into service in relation to offences which provide for punishment of life sentence, as the Apex Court examined the matter in the context of provisions of Section 386 of I.P.C., which provides punishment of imprisonment, which may extend to ten years and fine.

3. Viewed in this perspective, I see no reason to defer from the view already expressed in my unreported decision dated 14th December 2004 in the case of **State of Maharashtra vs. Popatlal (supra)**. Following the said view, I see no infirmity in the order as passed by the Court below rejecting the bail application preferred by the Applicant, as period of ninety days was still not over, as the Applicant was being tried for offence punishable, amongst others, under Sections 255 and 467 of the I.P.C., which provide for life sentence. Hence, dismissed.

A.M.KHANWILKAR, J.